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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,119

08/25/2004

Bogdan Radu

MASLIAC-47

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EXAMINER

PATEL, KIRAN B

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

09/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,119

Applicant(s)

RADU ET AL.

Examiner

Kiran B. Patel

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

RCE Non-Final Rejection (9/7/07)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehead et al. (6,422,640) and further in view of Szerdahelyi et al. (6,076,882).

Regarding Claims 16-20, Whitehead et al. (6,422,640) discloses the invention as claimed to include a door trim panel assembly 10 for mounting to a doorframe 12 structure of a motor vehicle 14, comprising: a hardware carrier 20 having a front and back surface; and a seal 24 molded to the front surface and having a non-linear configuration, the non-linear configuration being defined by opposing top and bottom surfaces of the seal and opposing first and second side walls of the seal Fig 1-4, the first and second side walls connecting the top and bottom surfaces, the bottom surface being molded to the front surface of the carrier and the top surface for contacting the doorframe structure to seal the carrier thereto Fig 1-4; further comprising a door trim panel, the back surface of the hardware carrier being coupled to the door trim panel Fig 1-4; wherein the non-linear configuration includes at least one of a substantially repeating v-shaped, s- shaped, and o-shaped configuration Fig 1-4; wherein the non-linear configuration further comprises at least a first and second non-linear configuration, one side of the seal including the first

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non-linear configuration and an opposing side of the seal including the second non-linear configuration Fig 1-4; wherein the seal comprises a thermoplastic elastomer and the body comprises a thermoplastic material such that the seal bonds to the body Fig 1-4.

However, Whitehead et al. (6,422,640) does not disclose the top surface being planar.

Szerdahelyi et al. (6,076,882) discloses seal 30 with planar surface.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Whitehead et al. (6,422,640), to include a seal with a planar surface, as disclosed by Szerdahelyi et al. (6,076,882), to provide a substantial surface area for contacting the doorframe to prevent water leakage within the vehicle.

Response to Arguments

1. Applicant's arguments filed 8/23/07 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, seal 44 is provided for contacting and compressing against the doorframe 12 to provide a water barrier and prevent water from infiltrating the interior of the door assembly 10, via the various openings 32, 39 of the doorframe 12 and the carrier 14, and wetting the trim panel 16 (see

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specification paragraph 0035). Likewise the seals in Whitehead et al. (6,422,640) and Szerdahelyi et al. (6,076,882) are provided as a water barrier.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that the references fail to teach, "a planar top surface" is not valid because examination of figure 1f of Szerdahelyi et al. (6,076,882) clearly shows that the seal 30 has a planar top surface.

Conclusion

1. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.
2. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 571-272-6665. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


Kiran B. Patel, P. E.
Primary Examiner
Art Unit 3612
September 7, 2007